

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION

TERRY HARRIS,)	
DOROTHY WATFORD, et al.,)	
)	
Plaintiffs,)	
)	
v.)	CASE NO. 2:05-cv-01083-WKW
)	
JOSEPH BORG,)	
)	
Defendant.)	

ORDER

This case is before the court on the defendant's Motion to Dismiss Class Action Claims (Doc. # 22), Motion to Strike and, in the alternative, Motion Requesting the Opportunity to Respond to Plaintiffs' Submission in Support of Class Certification (Doc. # 26), and Motion for a Status Conference and a Revised Uniform Scheduling Order (Doc. # 27).

In the Complaint filed on April 18, 2005, the plaintiffs purported to represent a class of independent representatives in Networker 2000.com and Wealth Builders International. The court entered the Uniform Scheduling Order on May 12, 2006. Section 5 of the Uniform Scheduling Order required motions and briefs for class certification to be filed on or before August 9, 2006. Because the plaintiffs failed to file such a motion, the defendant filed his motion to dismiss the class action claims on August 10, 2006. The court ordered the plaintiffs to respond by September 1, 2006. Twenty-one days after the plaintiffs' due date, Plaintiff Terry Harris filed an affidavit and a list of purported class members instead of filing a motion and brief for class certification. His affidavit contains conclusory allegations that purport to establish the prerequisites to a class action under Rule 23 of the Federal Rules of Civil Procedure.

The plaintiffs' submission is untimely under the Uniform Scheduling Order and the court's subsequent order. Moreover, it provides no basis for the certification of a class action. Thus, it is ORDERED that:

1. The defendant's Motion to Dismiss Class Action Claims (Doc. # 22) is GRANTED. The class action allegations in the Complaint are STRICKEN. The plaintiffs are ORDERED to file an amended complaint (reflecting only that the class allegations have been stricken) on or before November 9, 2006.
2. The defendant's Motion to Strike (Doc. # 26) is DENIED as MOOT;
3. The defendant's Motion for a Status Conference (Doc. # 27) is GRANTED. It is ORDERED that a status conference is scheduled for November 13, 2006, at 11:00 a.m., in Courtroom 2-E, United States Courthouse, One Church Street, Montgomery, Alabama.

DONE this the 31st day of October, 2006.

/s/ W. Keith Watkins
UNITED STATES DISTRICT JUDGE